

Altering Medical Records: What Not To Do When Being Audited By Medicare

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Document, document, document! is the cry of health care attorneys and consultants across the Country when asked what physicians can do to protect their practices from fraud and abuse liability. But what happens if you receive a Medicare audit request and you find out that your documentation isn't so good or even non-existent? Many physicians when faced with this prospect are tempted to recreate or alter medical record documentation. Beware, this is probably the worst thing you can do in this situation.

Poor or even non-existent medical record documentation is not necessarily an indicator of fraud or abuse. In many cases it is simply an indication of the need for documentation and coding education or better record keeping protocols. In these circumstances, a physician may have to return some money to Medicare or other payors but will generally not be looking at civil or criminal penalties. Recreating, altering or falsifying records, however can quickly turn a simple overpayment situation into a criminal case. That's what has apparently happened to a podiatrist in New Jersey according to [a recent article in the New Brunswick Home News Journal](#). According to the article, in response to a request by a Medicare contractor for 25 medical records, the podiatrist re-wrote the records to enhance the Medicare claims under review and was charged with obstructing a federal audit. The potential penalty for this: a maximum of five years in prison and as much as a \$250,000 fine.

So what can you do if your documentation falls short in the face of an audit submission? If the documentation exists but is simply illegible, you might include a typed transcription along with the original records. If pieces of information are missing from a note, you can include an annotation explaining why the information is missing, but any such annotation should be signed and dated when made. Back-dating is major a no-no. Finally, when records are missing altogether, a letter to the auditor explaining the situation and offering to refund the amounts received may make sense. In any of these circumstances, however, it is highly advisable to immediately consult with a knowledgeable health care attorney before doing anything.

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